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AN  
APOLOGY  
FOR THE  
ARMY,

Touching the eight Quære's upon the  
late Declarations and Letters from the  
Army, touching sedition falsely  
charged upon them.

Wherein those Quæres are resolved, and thereby  
the present proceedings of the Army are  
proved to be Legall, Just & Honourable.

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By DAVID JENKINS, Prisoner in the  
Tower of L O N D O N.

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*Quis tulerit Gracchos de se ditione querentes*

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Printed in the Yeare, 1647.

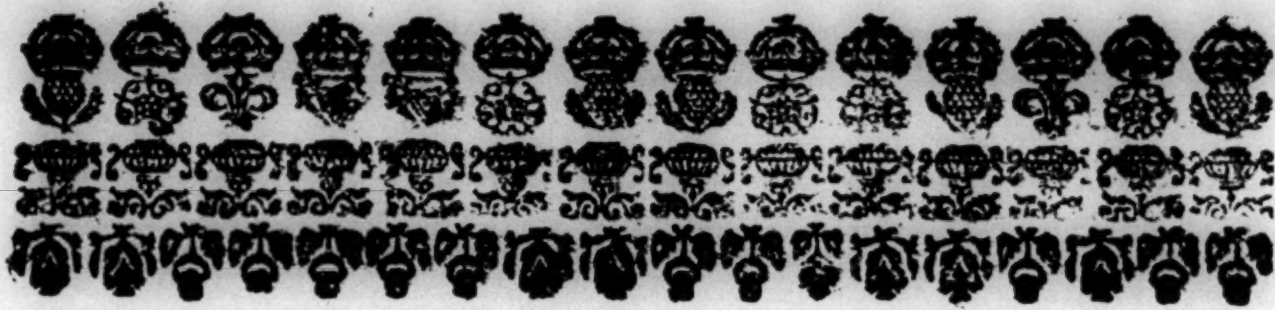
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by David James Bell in the  
Tower of London.

Printed in Great Britain, 1947.







A N  
A P O L O G I E  
FOR THE  
A R M Y.



Hese Treasonable and insolent *Queries* make the Army the Houses Subjects, and not the Kings. None by the Laws of this Land can in this Kingdome have any Army but his Majesty.

*Bracton fol.*  
*118.*  
*Stanford. f. 2.*

It appears, the Armie doth now evidently perceive, that they were mis-led by the specious pretences of *Salus Populi*, the maintenance of the Kings Honour, and of the maintenance of the Lawes of the Land, and Liberties of the Subject, to take up Arms against their naturall Liege Lord and. Sovereigne the King : The People is the Body, the King is the Head ; Was the Body safe when the Head was distressed and imprisoned ? For Lawes and Liberties have not the prevailing party in the two Houses destroyed above 100 Acts of Parliament, and in effect *Magna Charta*, & *Charta de Forreſta*, which are the common Lawes of the Land ? Doth Excise, the Fifth and Twentieth parts, Meale-

*Mag. Char.*  
*c. 1. & ult.*  
All the Act concerning the King, Church, and Churchmen.  
*25. E. 1. c. 1.*



money, and many more burdens which this Land never heard of before, maintaine the Liberties of the people? You, and that partie of the two Houses, made the Army by severall Declarations before engagement, believe that you would preserve the Kings Honour and Greatnesse, the Lawes, and Liberties of the people: The Army and the whole Kingdome now *facta vident*, see your actions, and have no reason longer to believe your Oathes, Vowes, and Declarations; and since that party in the two Houses refuse to perform any thing according to their said Oathes, Vowes, and Declarations, the Armie and the Kingdome may and ought, both by your own principles, and the Lawes of the Land, to pursue the end for which they were raised. And so your first *Quere* is resolved; whereby it is manifest, that specious pretences to carry on ambitious and pernicious designs, fix not upon the Army, but upon you, and the prevailing party in both Houses.

*The Solution of the second Quere.*

3. par. Instit.  
f. 12. 39. El.  
1. Iacob. ibi.  
2. & 3. E. 6.  
cap. 2.  
11. H. 7. c. 1.

The Army, to their eternall honour, have freed the King from imprisonment at *Holmby*. It was High Treason to imprison His Majesty: To free His Majestie from that imprisonment was to deliver Him out of Trayterous hands, which was the Armes bounden duty by the Law of God and the Land. That party refused to suffer His Majestie to have two of His Chaplaines for the exercise of His Conscience who had not taken the Covenant; free access was not permitted; doth the Army use His Majestie so? all men see that access to Him is free, and such Chaplaines as His Majestie desired are now attending on His Grace: Who are the guilty persons, the Army, who in this action of delivering the King, act according to Law, or the said party who acted Treasonably against the Law? Who doth observe the Protestation better, they who imprison their King, or they who free Him from prison?

That



That this Army was raised by the Parliament, is utterly false : The Army was raised by the two Houses upon the specious pretences of the Kings Honour, common safety, and the preservation of Laws and Liberties ; which how made good, hath been shewed before, and all the people of the Kingdom do finde by woful experience.

The two Houses are no more a Parliament, then a Body without a Head a Man. The two Houses can make no Court without the King; they are no Body Corporate without the King; they all, Head and Members, make one Corporate Body. And this is so clear a Truth, that in this Parliament, by the Act of 17 *Caroli* it is declared, That the Parliament shall not be dissolved or prorogued but by Act of Parliament: but the two Houses may respectively adjourn themselves. Two Houses and a Parliament are several things. *Cuncta fidei vera faciunt*: all circumstances agree to prove this truth. Before the *Norman* Conquest, and since to this day, the King is holden Principal, *Caput & finis*, that is, the beginning, Head, and chief end of the Parliament, as appeareth by the Treatise of the manner of holding of Parliaments made before the *Norman* Conquest; by the Writ of Summons of Parliament whereby the Treaty and *Parler* in Parliament is to be had with the King onely; by the Common Law; by the Statute-Law; by the Oath of Supremacie taken at this and every Parliament, it doth manifestly appear, that without the King there can be no colour of a Parliament.

How many Votes have they revoked in one Session, yea, and Bills? Was there ever the like done? Nay, is not the constant course of Parliaments violated and made nothing thereby? They are guarded by armed men, divide the publike Money among themselves, and that party endeavours to bring in a Forraign to invade this Land again. If they be no Parliament, as clearly they are none without His Majestie, they have no Priviledges, but do exercise an Arbitrary, Tyrannical and Treasonable power over the people.

By

14 H.8.3.

36 H.8.

Dier.60.

4 par. Instit.

p.1.3.12.14.

16 R.2.c.1.

5 Eliz.c.2.

17 Carol.

The Act for

the continu-

ance of this

Parliament.

4 par. Instit.

pag.12.

4 par. Instit.

pag.4,9.

5 Eliz.c.1,2.



7 E.4.20.

8 E.4.3.

9 E.4.27.

4 H.7.18.

27 H.8.23.

By the Law of the Land, when Treason or Felony is committed, it is lawful for every Subject, who suspects the Offender, to apprehend him, and to secure him so, that justice may be done upon him according to the Law.

You say, The disobedience of the Army is a sad publike President, like to conjure up a spirit of universal disobedience. I pray object not that conjuring up to the Army, whereof you and the prevailing party in the Houses are guilty, who conjured up the spirit of universal disobedience against His Majestie, your and our onely Supreme Governour, but you, and that party in the two Houses, and even then when the House of Commons were taking and did take the said Oath of Supremacy? For the Covenant you mention, it is an Oath against the Laws of the Land, against the Petition of Right, devised in *Scotland*, wherein the first Article is to maintain the Reformed Religion in the Church of *Scotland*: And certainly there is no Subject of the English Nation doth know what the Scottish Religion is. I believe the Army took not the Covenant. No man by the Law can give an Oath in a new case without an Act of Parliament; and therefore the imposers thereof are very blameable, and guilty of the highest Crime.

2 Part. Coll.  
of Ord. pag.  
803.

Petition of  
Right, 3 Car.  
2 pars instit.

719.

Mag. Chart.  
cap. 1. & ul-  
timo Arti-  
culi Cleri,  
and many c-  
ther Statutes  
16 Ed. 4. 10

The Writer of these *Queries* seems to professe the Laws; let him declare what Act of Parliament doth justify the tendering, giving, or taking of the said Oath: he knoweth there is none, he knoweth that all the parts of it are destructive of the Laws and Government to maintain which the Law of Nature and the Law of the Land had obliged them. The Oath of the Covenant makes the Houses supreme Governours in causes Ecclesiastical; the Oath of Supremacy makes the King so: and yet both taken by the same persons, at the same time. What credit is to be given to persons who make nothing of Oathes, and contradict themselves? How do the Covenant and the Oath of Supremacy agree? How do their Proteltation and the Co-  
venant



venant agree? How do their Declarations and Oathes agree? The Lord be merciful to this Land for these Oathes.

It is a sad thing to consider that so many Gentlemen who professe the Laws, and so many worthy men in both Houses should be so transported as they are, knowing that the Laws of the Land from time to time, and in all times, are contrary to all their actions, and that yet they should amuse themselves and the people with the word of Parliament without the King, and with the Covenant; whereas they know they are no Parliament without His Majestie: and that Englishmen thorowout the Kingdom should swear a Covenant to preserve the Reformed Religion of *Scotland*, in Doctrine, Worship, Discipline and Government, which they no more know then the Doctrine, Worship, Discipline and Government of *Prester John* in *Ethiopia*; if they consider it, they cannot but discern that this is a high, desperate and impious madnesse.

Be wile in time: Without the King and the Laws, you will never have one hour of safety for your Persons, Wives, Children or Estates. Be good to your selves and to your Posterities; apply your selves to be capable of an Act of Oblivion, and of a general Pardon, and to be able and willing to pay the Souldiery, and to allow a reasonable liberty for mens consciences; and God will blesse your endeavours, and the people (to whom you are now very hateful) will have you in better estimation.

*The third Quere is thus answered.*

You resemble the Army to *Jack Cade* and his complices, and you cite the Act of Parliament of 31 Hen. 6. cap. 1. And that it may appear who acts the part of *Jack Cade*, you and that Party in the two Houses, or the Army, I think it necessary to set down the said Act in words at length as followeth.

First, *Whereas the most abominable Tyrant, horrible, odi-*  
ous



ous and arrant false Traytor John Cade, calling and naming himself sometime Mortimer, sometime Cap. of Kent, which name, fame, acts and feats are to be removed out of the speech and mindes of every faithful Christian man perpetually, falsly and traitterously purposing, and imagining the perpetual destruction of the Kings said Person, and final subversion of this Realm, taking upon him Royal Power, and gathering to him the Kings people in great numbers, by false, subtil imagined language, and seditiously making a stirring Rebellion and Insurrection, under colour of Justice, for Reformation of the Laws of the said King, robbing, stealing and spoiling great part of his faithful people. Our said Sovereign Lord the King considering the premises, with many other which were more odious to remember, by advice and consent of the Lords afore said, and at the request of the said Commons, and by authority afore said, hath Ordained and Established that the said John Cade shall be reputed had, named, and declared a false Traytour to our Sovereign Lord the King; and that all his tyranny, acts, feats and false opinions shall be voided, abated, annulled, destroyed, and put out of remembrance for ever: and that all Inditements, and all things depending thereof, had and made under the power of Tyranny, shall be likewise void, annulled, abated, repealed, and holden for none: and that the blood of none of them be thereof defiled nor corrupted, but by the authority of the said Parliament clearly declared for ever: and that all Inditements in times coming, in like case, under power of Tyranny, Rebellion and Stirring had, shall be of no Record nor effect, but void in Law; and all the Petitions delivered to the said King in his last Parliament holden at Westminster, November. 6. in the 29 of his Reign, against his minde, by him not agreed, shall be taken and put in Oblivion, out of remembrance, undone, voided, annulled, and destroyed for ever, as a thing purposed against God and Conscience, and against his Royal Estate and Preeminence, and also dishonourable and unreasonable.

Now



Now wee are to examine who hath trod in the steps of *Jack Cade*, you and the present prevailing party of the two Houses tooke upon them, and doe take all the Royall Power in all things; so did *Jack Cade*, as appeares by the said Act; the Army doe not so: They who imprison the King purpose to destroy His Person ( our imprisoned Kings alwayes \* Edward 1. \* fared so ) *Jack Cade* did likewise so purpose, but the Army doe not so: The said party in the two Houses made Henry 6. Richard 2. a stirring under colour of Justice for Reformation of the Lawes; so did *Jack Cade*: The Army doe not so, but desire that the Lawes should be observed: *Jack Cade* levied Warre against the King, the Army preserves Him: *Jack Cade* dyed a Declared Traytor to his Sovereigne Lord the King; this Army lives to have the glorious true Honour of being restorers of their King.

*Simon Sudbury* Archbishop of Canterbury was murthered by *Jack Cade*: *William Laud* Archbishop of Canterbury was likewise murthered by that party of the two Houses, for that an Ordinance by Law cannot take away any mans life, and his life was taken away by an Ordinance of the two Houses, the Army had no hand in it. Many misled by *Jack Cade*, perceiving his Trayterous purposes, fell from him; and as that was lawfull, just, and Honourable, so it is for this Army to adhere to their naturall King, and to endeavour to settle the Kingdome againe in the just Lawes and Liberties thereof: London did then right worthily adhere to the King and the Lawes, and not to *Jack Cade* and his specious pretences, and it is hoped they will now so do: By this it appeares, that the Gentlemans Discourse touching *Jack Cade*, fastens altogether on his party, and cleareth the Army.

25. Ed. 3.4.  
28. Ed. 3.3.  
Petition of  
Right. 3. Car.

*To the I V. which is solved thus.*

The Arreares of the Army (howbeit it is the least thing they look after) yet being not paid them, it is by the Law of the Land a sufficient cause to leave and desert that party



Finz. N. B. 159.

9 E. 1. 4. 20

38 H. 6. 27.

23 Eliz. Dier

369.

in the Houses: A person who serves in any kinde, and is not paid his wages, the desertion of that service is warrantable by the Laws of the Land: You say, the Houses will reforme all things when the Army doth disband: who will beleeve it? Will any beleeve that the settling of the Presbytery will doe it? Will any beleeve that his Majesty will passe the Propositions sent to Him to *New-castle*? Will any man beleeve that this Kingdome will ever bee quiet, without his Majesty and the ancient and just Laws? Can the Members of the Army conceive any of them to be safe in any thing, without a pardon from His Majesty? Have they not seene some of their Fellows hanged before their eyes, for actions done as Souldiers? Shall the Kingdome have no account of the many Millions receiv'd of the Publicke Money? Will the Members of the Houses accuse themselves? Shall private and publike Debts bee never paid? Shall the Kingdome lye ever under burthens of Oppression and Tyranny? There is no visible way to remedy all these enormities, but the power of the Army.

*To the V. which is solved thus.*

2. & 3. Ed. 6.  
cap. 2.

11 H. 7. cap. 1.

Calvins case,

7. pars, Cook

fol. 11.

The Kingdome hath better assurance of Reformation from the Army, then from the Houses, for that in their Military way they have been just, faithfull, and honourable; they have kept their words: That party of the Houses have bin constant to nothing but in dividing the publike treasure among themselves, and in laying burdens upon the people, and in breaking all the Oathes, Vowes, and Promises they ever made: As the Army hath power, so now adhering to the King, all the Lawes of God, Nature, and Man, are for them, their Armies are just, and blessed; and the King is bound in Justice to reward his Deliverers with Honour, Profit, and meet Liberty of Conscience.

To



## To the VI. Quere.

All the sixth *Quere* contains Calumnies cast upon the Army; the new elections are against all the Laws mentioned in the Margin, and are against the ejection of the old Members; and by this it may be judged, what a *House of Commons* we have. By the said Laws it appears, that if any undue returne be made, the person returned is to continue a Member; the Sheriffs punishment is two hundred pounds, one to the King, and the other to the party that is duly elected; imprisonment for a year, without Bayle or Mainprise; and that person who is unduly returned, shall serve at his own charge, and have no benefit at the end of the Parliament, by the Writ *De solutione fœderum Militum, Civium & Burgensium Parliamenti*. And the triall of the falsity of the returne, is to be before the Justices of Assizes in the proper County, or by Action of Debt in any Court of Record. This condemnes the Committee for undue elections, which hath been practised but of late times: for besides these Lawes, it is a Maxime of the Common Law, an Averment is not receivable against the returne of the Sheriffe, for his return is upon Oath, which Oath is to be credited in that suit wherein the return is made.

11 H.4 c.1.

1 H.5.c.1.

8 H.6.c.7.

23 H.6.c.15.

3 Ed.4.20.

5 Ed.4.42.

The said Statutes condemne elections of such men which were not resident and dwelt in the County or Boroughs for which they were returned; and any abusive practise of late times to the contrary, is against the Law, and ought not to be allowed.

## To the VII. Quere.

The *Querist* saith, That the Votes of the Independents in the Houses were arbitrary, exorbitant, and irregular, and that they disposed and singled more of the common Treasure then others: That whole *Quere*; I believe is false and slan-



37 Ed. 5 c. 17. slanderous; and the Authour ought to make it good, or else to undergoe the Law of *Talion*; which is, to suffer such punishment, failing of his prooffe, as the accused should, in case of prooffe made.

*To the VIII. Quere*

This *Quere* is almiratorie and threatening, and the contrary of every part is true: by the deliverance of the King and Kingdome from the bondage of that party in the two Houses by the Army, their renowne will be everlasting; they secure themselves; they content and please the Kingdome, City, and Countrey, as appeares by their confluence to see his Majesty and the Army, and their acclamations for his Majesties safety and restitution: all which doth evidence to every one of the Armie, how acceptable the intentions of the Armie are to the people of this Land, who have been so long inthralled.

Sir *Thomas Fairfax*, let your Worthinesse remember your extraction and your Ladies, by the grace and favour of the Prince, to be in the ranke of Nobility; Remember what honour and glory the present Age and all posteritie will justly give to the restorer of the King to his Throne, of the Laws to their strength, and of the afflicted people of this Land to peace: let the Colonels and Commanders under You, and likewise your Souldierie, rest assured, that they shall not only share in the renowne of this action, but also shall have such remuneration as their haucie courage and so high a vertue doth deserve: This his Majesty can and will doe, the Houses neither will nor can; and God bleesse you all, and prosper You.

*I conclude all, as I have alwayes done: Without an Act of Oblivion, a generall Pardon, the Arreares of the Souldierie paid, and a regard to Liberty of Conscience, this Kingdome will certainly be ruined.*

FINIS.

